

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 326 - SB 494

March 7, 2013

SUMMARY OF BILL: Requires the Attorney General and Reporter, before any responsive pleading is due in a matter, to certify to the Speakers of each House of the General Assembly and to the Governor, if the Attorney General is of the opinion that a particular piece of legislation enacted by the General Assembly is unconstitutional. In such situations, limits the Speakers to act jointly within 15 days of receiving a certification from the Attorney General to employ legal counsel to defend the constitutionality of such law. Authorizes the Governor, if the Speakers do not notify the Governor of their decision to employ legal counsel by the 15-day period, to employ legal counsel.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – Cases in which the Speakers or the Governor elects to hire outside counsel will result in an increase in state expenditures of at least \$5,000 per case for legal fees and expenses, depending on the nature, complexity and duration of each case. The circumstances under which this scenario may arise are not known and a more precise fiscal impact of this bill therefore cannot reasonably be determined.

Assumptions:

- Tenn. Code Ann. § 8-6-106 currently requires a joint decision by the Governor and Attorney General to hire additional counsel. In cases where the Attorney General decides not to defend the constitutionality and validity of any law, the Speakers may jointly decide to hire outside counsel. The provisions of the bill limit the decision of the Speakers to a 15-day period and grants the Governor the authority to hire outside counsel if the Speakers do not act within the time period.
- This bill therefore may result in the hiring of outside counsel in more cases than under current law. The circumstances under which this scenario may arise are speculative and cannot be specified in a fiscal note in the absence of a specific determination by the Speakers or the Governor that counsel should be hired.
- According to the Attorney General, the cost of outside counsel in any case depends on many factors and cannot reasonably be predicted. Notwithstanding these limitations, the

cost of outside counsel in each case would cost \$5,000 or more in fees and expenses, depending on the nature, complexity, and duration of the case.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

/lsc